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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/419,872	10/19/1999	AKIHISA KAWAGUCHI	1344.1033/JD	1976

21171 7590 12/31/2003
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WASHINGTON, DC 20005

EXAMINER

SEDIGHIAN, REZA

ART UNIT	PAPER NUMBER
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2633

DATE MAILED: 12/31/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/419,872

Applicant(s)

KAWAGUCHI ET AL.

Examiner

M. R. Sedighian

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-6 and 8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1 and 3-6 is/are allowed.
- 6) ☒ Claim(s) 8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other:

1. This communication is responsive to applicant's 8/20/2003 amendments in the application of Kawaguchi et al. for "Method of controlling optical wavelength division multiplexing transmission apparatus" filed 10/19/1999. The amendments have been entered. Claims 1, 3-6, and 8 are now pending.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Izumi (US Patent No: 6,466,348).

Regarding claim 8, Izumi discloses a method of controlling an optical wavelength division multiplexing transmission apparatus (col. 11, lines 21-22, col. 12, lines 7-9 and figs. 2, 29) having an optical amplification section (127, fig. 2), comprising: setting initial information including a number of wavelengths being used and wavelength being used (col. 2, lines 6-8, col. 4, lines 15-18 and 123, fig. 2 and 611, fig. 29); setting an amount of optical attenuation (124, fig. 2 and 605, 606, fig. 29) corresponding to each of the wavelengths (note that optical attenuator 124 is tunable and optical attenuators 605 and 606 of fig. 29 each can be separately controlled to attenuate a respective wavelength); determining when a variation in the number of wavelengths being input occurs (col. 4, lines 15-18, col. 20, lines 58-66); and when a variation in the number of wavelengths being input occurs, individually controlling an amount of optical attenuation corresponding to each wavelength of the optical signal being input (note that each optical

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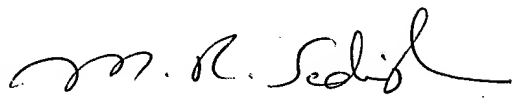
attenuators 605, 606, 607 in fig. 8 can be controlled for respective wavelengths), so that the power level of the optical signal is approximately constant (col. 6, lines 7-10, col. 12, lines 35-38), and so that the optical power level per single wavelength of the multiplexed optical signal input into the optical amplification section is of a level which corresponds to the varied number of wavelengths (col. 4, lines 15-20). Izumi differs from the claimed invention in that Izumi does not disclose setting an amount of optical attenuation to a maximum value. Izumi teaches optical attenuators (605 to 608, fig. 29) that are controllable by a monitor and control unit (col. 21, lines 52-56 and 611, fig. 29). Therefore, it would have been obvious to an artisan at the time of invention that the optical monitor and control unit 611 of Izumi can control and set the amount of optical attenuation to a maximum value for each of the optical attenuators 605 to 608 in the transmission system of Izumi to provide a predetermined optical energy and a specific output power level.

4. Claims 1 and 3-6 are allowed over prior art of record.
5. Applicant's arguments with respect to claims 1 and 8 have been considered but are moot in view of the new ground(s) of rejection.
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. R. Sedighian whose telephone number is (703) 308-9063. The examiner can normally be reached on M-F (from 9 AM to 5 PM).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Chan can be reached on (703) 305-4729. The fax phone numbers for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.


M.R. SEDI GHIAN
Patent Examiner
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